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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHANNON D. WILMORE,

Plaintiff,

vs.

OPTUM SERVICES, INC., operating as
OPTUM and d/b/a SOUTHWEST MEDICAL
SURGERY CENTER; DOES I through X,
inclusive; and ROE CORPORATIONS 1
through X, inclusive.

Defendants.

CASE NO.:

COMPLAINT
(Jury Demanded)

PLAINTIFF, SHANNON D. WILMORE, by and through her attorney, Kristina S. Holman,
and complains and alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action for damages under federal statutes prohibiting race and retaliation, and to secure the protection of and to redress deprivation of rights under these laws.
2. Plaintiff's statutory claims of discrimination arise under race discrimination under Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, 42 U.S.C. §2000e *et seq.*; the Civil Rights Act of 1991, ("1991 Civil Rights Act"). The Plaintiff asserts she was harassed and treated differently by her employer because of her race and then retaliated against for reporting this discrimination to management. Defendant failed to take any corrective action, forcing Plaintiff to

1 constructively discharge her employment on February 29, 2024. Other employees of non-African-
2 American race were not similarly disciplined. After addressing these issues with the Defendant to
3 no avail, Plaintiff constructively discharged her employment after over 21 years of employment.

4
5 3. All conditions precedent to jurisdiction under the Civil Rights Act, as amended (race
6 and retaliation) have occurred or been complied with as herein described:

7 (a) Plaintiff filed a formal "Charge of Discrimination" (EEOC Charge No. 487-
8 2024-0087). The EEOC issued the "Determination and Notice of Rights" on June 7, 2024 which
9 the Plaintiff downloaded on June 11, 2024. Therefore, this Complaint is filed within 90 calendar
10 days of Plaintiff's receipt of the "Determination of the Notice of Rights." Plaintiff has filed her
11 Complaint in a timely manner.
12

13 4. Venue is proper in the Federal District Court of Nevada pursuant to 28 U.S.C.
14 §1391(b) because the unlawful employment practices were committed in and arose in the District
15 of Nevada.
16

17 THE PARTIES

18 5. Plaintiff, SHANNON D. WILMORE, during the relevant time period was a resident
19 of the County of Clark, State of Nevada. At all relevant times, Defendant Southwest Surgery Center
20 (hereinafter, "Employer" or "Defendant") hired Ms. Wilmore. as a surgery scheduler in Las Vegas,
21 Nevada.
22

23 6. Defendant OPTUM SERVIES, INC., operating as OPTUM, and d/b/a
24 SOUTHWEST MEDICAL SURGERY CENTER, is a corporation licensed to conduct business in
25 Nevada with its office and place of business in Las Vegas, Nevada, and is qualified to do business
26 in the State of Nevada.
27

28 7. As Plaintiff's employer during the relevant time period, OPTUM is required to

1 comply with all state and federal statutes which prohibit harassment and discrimination on the basis
2 of race and retaliation.

3 8. Doe Defendants I-X, inclusive, are persons whose true identities are unknown to
4 Plaintiff at this time. Individual Doe Defendants are persons acting on behalf of or at the direction
5 of any corporate or business Defendants or who may be officers, employees, or agents of Defendant,
6 and/or Roe Corporation and acted to deprive Plaintiff of her rights. The Roe Corporations may be
7 parent companies, subsidiary companies, owners, predecessor or successor entities, or business
8 advisers, de facto partners, or joint ventures of Defendant. Plaintiff alleges that individual Does I-
9 X and Roe Corporation Defendants I-X may have authorized, committed, directed, and/or assisted
10 in the commission or ratified the commission of the unlawful discriminatory and/or tortious acts
11 directed toward Plaintiff and thus, may be responsible in whole or in part, for his damages. Plaintiff
12 will seek leave to amend this Complaint as soon as the true identities of Doe/Roe Defendants are
13 revealed.
14
15
16

17 FACTS

18 9. Optum and/or other Defendants hired Ms. Wilmore, an African American female, in
19 October 2002 as a Surgery Scheduler. She worked as a Surgery Scheduler for over 21 years,
20 acquiring experience in her field throughout her long tenure of employment. Plaintiff always
21 performed her duties and responsibilities in a satisfactory or above-satisfactory manner. She sought
22 to bring the best service to Defendants, her coworkers and patients. She believed that she had always
23 worked in compliance with all rules and regulations that applied to her position.
24

25 10. Starting in January 2015 through her constructive discharge in February 2024,
26 Plaintiff's manager harassed her. Her manager issued her disciplinary actions and even scrutinized
27 her work carefully, including watching her work on her computer.
28

1
2 11. Plaintiff reported this hostile work environment to management. No action was taken
3 to correct the situation.

4
5 12. From October 2023 through January 2024, Plaintiff continued to be disciplined.
6 Other employees (non African-Americans) had engaged in similar conduct, and were not
7 disciplined. It is Ms. Wilmore's position that other employees who engaged in the same or similar
8 conduct were not disciplined.

9
10 13. Plaintiff again reported this disparate treatment. Again, no action was taken to correct
11 the situation.

12 14. On or about February 29, 2024, Plaintiff constructively discharged her employment.

13 15. Ms. Wilmore pursued a Charge of Discrimination (EEOC No. 487-2024-00817)
14 against OPTUM, d/b/a Southwest Medial Surgery Center with the U.S. Equal Employment
15 Opportunity Commission. It is incorporated herein by reference.
16

17 **FIRST CAUSE OF ACTION**

18 ***Race discrimination under federal anti-discrimination statutes***

19 16. Ms. Wilmore repleads and realleges and incorporates herein by reference each and
20 every allegation contained in Paragraphs 1 through 15.

21 17. Defendant OPTUM, d/b/a Southwest Medical Surgery Center as an employer, knew
22 or should have known of its long-standing obligation, pursuant to federal statutes, to maintain a
23 workplace free of race discrimination and retaliation.

24
25 18. Defendant failed to take reasonably adequate steps to prevent race discrimination in
26 its workplace.

27 19. Defendant failed to institute effective institutional policies to remedy complaints
28 about conduct which might constitute race discrimination and retaliation.

1 20. Therefore, Ms. Wilmore charges that Defendant has discriminated against her based
2 upon race. Defendant through the actions of its management, allowed, authorized and ratified these
3 actions.

4 21. Ms. Wilmore has also suffered mental and emotional distress as a result of this
5 unlawful discrimination.
6

7 22. As a direct and proximate result of Defendant's race discrimination, Ms. Wilmore
8 has been deprived of economic benefits, including, but not limited to, lost wages, loss of fringe
9 benefits, earning capacity, and loss of job opportunities (promotions) in an amount to be proven at
10 the time of trial.
11

12
13 **SECOND CAUSE OF ACTION**

14 ***Retaliation under federal anti-discrimination statutes***

15 23. Plaintiff repleads and realleges and incorporates herein by reference each and every
16 allegation contained in Paragraphs 1 through 22.

17 24. Defendant knew or should have known of its obligation to refrain from and prevent
18 retaliatory acts against Ms. Wilmore and Defendants failed to do so.
19

20 25. Defendants subjected Ms. Wilmore to adverse terms and conditions of employment
21 after she complained to management personnel about race discrimination which constitutes unlawful
22 retaliation.

23 26. Defendants further retaliated against Ms. Wilmore by failing to take corrective action
24 after her continual reports of illegal discrimination.
25

26 27. As a direct and proximate result of Defendants' discrimination, Ms. Wilmore has
27 been deprived of economic benefits, including, but not limited to, lost wages, loss of fringe benefits,
28

1 earning capacity, and loss of job opportunities (promotions) in an amount to be proven at the time
2 of trial.

3 28. Defendant OPTUM's retaliatory actions against Ms. Wilmore have caused, continue
4 to cause, and will cause her to suffer substantial damages for future pecuniary losses, mental anguish,
5 loss of enjoyment of life, inconvenience, and other nonpecuniary losses.
6

7 29. It has been necessary for Ms. Wilmore to retain the services of an attorney. She is
8 entitled to reasonable attorneys' fees, including litigation expenses, and the costs in this action.
9

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, Shannon D. Wilmore respectfully prays as follows:

- 12 1. A trial by jury on all issues;
- 13 2. All employment-related losses subject to proof;
- 14 3. All compensatory, special and general damages allowed by law;
- 15 4. Punitive damages in an amount found by the jury to be sufficient to punish and/or
16 deter Defendant and all others from engaging in any such conduct in the future as
17 an example to other employers not to engage in such conduct;
- 18 5. Attorneys' fees and costs of suit incurred herein;
- 19 6. Prejudgment interest;
- 20 7. Injunctive relief as appropriate; and
- 21 8. Such other and further relief as the Court shall deem just and proper.
22
23

24 Dated this 10th day of September, 2024.

25
26
27 By: 
28

Kristina S. Holman
Holman Law Office

Attorney for Plaintiff, Shannon D. Wilmore

EXHIBIT 1

EXHIBIT 1

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> EEOC 487-2024-00817 </div> <div style="display: flex; justify-content: space-between;"> FEPA </div>	
Nevada Equal Rights Commission		and EEOC	
State or local Agency, if any			
I Name (indicate Mr., Ms., Mrs., Miss, Mx., Dr., Hon., Rev.) Shannon D. Wilmore		Home Phone <div style="background-color: black; width: 100px; height: 1.2em;"></div>	Year of Birth <div style="background-color: black; width: 50px; height: 1.2em;"></div>
Street Address <div style="background-color: black; width: 100%; height: 1.2em;"></div> <div style="background-color: black; width: 100%; height: 1.2em;"></div>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name SouthWest Surgery Center		No. Employees, Members	Phone No.
Street Address 2450 W. Charleston Blvd LAS VEGAS, NV 89102			
Name		No. Employees, Members	Phone No.
Street Address <div style="text-align: center;">City, State and ZIP Code</div>			
DISCRIMINATION BASED ON		DATE(S) DISCRIMINATION TOOK PLACE	
Race, Retaliation		Earliest 01/01/2015	Latest 02/29/2024
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): In or around October 7, 2002, I was hired by the Respondent as a Surgery Scheduler. My last job title was the same. From in or around January 2015, to in or around February 2024, I was harassed by my manager. For example, but not limited to, my manager issuing me disciplines and watching me work on my computer. I informed Respondent of the hostile work environment; however, no action was taken to correct the situation. From in or around October 2023 to in or around January 2024, I was disciplined. Other similarly situated coworkers, not of my protected class, were not disciplined for the same or similar reasons. I informed Respondent of the disparate treatment; However, no action was taken to correct the situation. On or about February 29, 2024, I constructively discharged. I believe I was discriminated against due to my race, African American and retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct. Digitally Signed By: Shannon D. Wilmore 06/07/2024		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
Charging Party Signature			

EXHIBIT 2

EXHIBIT 2



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Las Vegas Local Office
333 Las Vegas Blvd South, Suite 5560
Las Vegas, NV 89101
(702) 553-4470
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 06/07/2024

To: Shannon D. Wilmore

Charge No: 487-2024-00817

EEOC Representative and email: ELLIOT UNTALAN
Federal Investigator
elliott.untalan@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign in to the EEOC Public Portal and upload the court complaint to charge 487-2024-00817.

On behalf of the Commission,

Digitally Signed By: Michael Mendoza
06/07/2024

Michael Mendoza
Local Office Director

Cc:

HR Manager
SouthWest Surgery Center
2450 W. Charleston Blvd
LAS VEGAS, NV 89102

Please retain this notice for your records.